

**IDAHO BOARD OF CHIROPRACTIC PHYSICIANS**  
**Bureau of Occupational Licenses**  
700 West State Street, P.O. Box 83720  
Boise, ID 83720-0063

**Board Meeting Minutes of 11/6/2017**

**BOARD MEMBERS PRESENT:** Herbert W Oliver, DC - Chair  
Charles H Coiner  
Shannon Gaertner-Ewing, D.C.  
Lynn A Hansen, DC  
Kathleen J McKay, DC (via phone)

**BUREAU STAFF:** Tana Cory, Bureau Chief  
Dawn Hall, Deputy Bureau Chief  
Lori Peel, Investigative Unit Manager  
Maurie Ellsworth, General Counsel  
Dicsie Gullick, Management Assistant  
Debbie Toncray, Technical Records Specialist II

**OTHERS PRESENT:** Ryan Fitzgerald, Idaho Association of  
Chiropractic Physicians  
Caroline Merritt, Idaho Association of  
Chiropractic Physicians

The meeting was called to order at 9:00 AM MDT by Herbert W. Oliver, DC.

**APPROVAL OF MINUTES**

Dr. Gaertner-Ewing made a motion to approve the minutes of 8/11/2017. It was seconded by Mr. Coiner. Motion carried.

Dr. Gaertner-Ewing made a motion to approve the minutes of 8/18/2017. It was seconded by Mr. Coiner. Motion carried.

Mr. Coiner made a motion to revise and approve the minutes of 8/24/2017 by adding in the first paragraph under Proposed Laws/Rules that Mr. Coiner's motion regarding Rule 020 died for lack of a second. It was seconded by Dr. Gaertner-Ewing. Motion carried.

Dr. Gaertner-Ewing made a motion to approve the minutes of 9/29/2017. It was seconded by Mr. Coiner. Motion carried.

**EXECUTIVE ORDER**

Dr. Oliver said he attended the meeting with Lt. Governor Little regarding the Executive Order on October 12, 2017, and updated the Board about the discussion in that meeting. He said that Lt. Governor Little reminded the

attendees that the mandate of the Executive Order was to streamline the Board's laws and rules to provide more efficiency. Ms. Cory said that all departments/agencies that issue licenses were involved in the Executive Order meeting with Lt. Governor Little, and he let everyone know there is a template that can be used for the report (i.e. laws and rules for issuing/renewing licenses, timeline from complete application to issuing license, denial of license, etc.). Ms. Cory reminded the Board about the link on its website for comments associated with the Executive Order. She said Ms. Callahan will be working with her and Dr. Oliver to review comments and complete the report.

## **LEGISLATIVE REPORT**

Ms. Cory gave the legislative report. The deadlines to submit proposed rule and law revisions to the Governor's Office have passed for the 2018 Legislative Session. The deadline to submit proposed law changes to the Governor's Office is Mid-July and the deadline to submit proposed rule changes to the Governor's Office is Mid-August for the 2019 Legislative Session.

Ms. Cory also said that she is setting up meetings around the state with Board members and Legislators. Mr. Coiner provided an update regarding the recent meeting in Twin Falls. He said there were a number of questions regarding the Board's financial report and the increase in fees. Ms. Cory said that the meetings are to provide information to the Legislators regarding the Board's laws and rules, finances, and upcoming legislation for the 2018 Legislative Session.

## **FINANCIAL REPORT**

Ms. Hall gave the financial report, which indicated that the Board had a cash balance of (\$73,694.43) as of 10/31/2017.

## **DISCIPLINE**

Ms. Uranga presented a memorandum regarding case number CHI-2018-1. Dr. Gaertner-Ewing made a motion to close this case with an advisory letter to the Respondent. It was seconded by Dr. Hansen. Motion carried.

Ms. Uranga presented a Stipulation and Consent Order in case CHI-2017-6. Mr. Coiner made a motion to approve the Consent Order and allow the Board Chair to sign on behalf of the Board. Dr. Gaertner-Ewing recused herself. The motion was seconded by Dr. Hansen. Motion carried.

## **INVESTIGATIVE REPORT**

Ms. Peel gave the investigative report, which is linked above.

## **FOR BOARD DETERMINATION**

Dr. Gaertner-Ewing made a motion to approve the Bureau's recommendation and authorize closure in case I-CHI-2017-17. It was seconded by Dr. Hansen. Motion carried.

Ms. Peel also presented a chart that listed prior discipline of licensees.

## **OLD BUSINESS**

To Do List – The Board reviewed the to do list.

## **INFORMED CONSENT**

The Board reviewed informed consent under the proposed rules in Sections 702, 704 and 706. The Board agreed that informed consent protects the doctor, makes the patient aware of procedures, and is mandated by malpractice insurance companies (i.e. Blue Cross) in order for chiropractors to obtain malpractice insurance. Dr. Hansen gave the Board the informed consent form he uses. The Board agreed that informed consent will remain a part of the proposed rules for certification in clinical nutrition in accordance with the law. Ms. Cory said it would be good to include the topic of informed consent in the Executive Order report. The Board discussed possible proposed laws regarding informed consent and tabled the topic for a future meeting.

## **FEDERATION OF CHIROPRACTIC LICENSING BOARDS (FCLB) CONFERENCE DISCUSSION: SPECIAL PURPOSES EXAM FOR CHIROPRACTIC (SPEC) REQUIREMENT FOR ENDORSEMENT**

Dr. Gaertner-Ewing and Dr. Oliver provided an update regarding their attendance at the FCLB District Meeting. Dr. Gaertner-Ewing said she had a question for the FCLB about the scope of practice issue happening with the Texas Chiropractic Board of Examiners. She said the Texas Chiropractic Board of Examiners was mandated to update the scope of practice, but the Texas Chiropractic Association proceeded to update the rules in order to update the practice act. The Texas Medical Board is now in the process of stripping procedures (ordering phlebotomy, ordering x-rays, etc.) from the practice of chiropractors. There was a significant discrepancy between the statute and rules after the Texas Chiropractic Association updated the rules. This allowed the Texas Medical Board to proceed with action against the Texas Chiropractic Board of Examiners. Dr. Gaertner-Ewing said we need to look at our laws and rules and make sure there are no significant discrepancies between them.

Dr. Oliver reviewed the SPEC requirements and the use of it by other State Boards. Ms. Cory reviewed the rules regarding the requirement of the SPEC by certain candidates applying for licensure by endorsement. Mr. Ellsworth reviewed the history of various objections to taking the SPEC in order to be licensed in Idaho. Dr. Gaertner-Ewing reviewed the history, purpose and design of the SPEC by the National Boards of Chiropractic Examiners (NBCE). The Board agreed to include discussion of the rule regarding the requirement of the SPEC on the To Do List for the 2019 Legislative Session, and asked Dr. Oliver to include it with the Executive Order report.

## **FCLB/BOARD ROLE WITH OTHER ORGANIZATIONS**

The Board discussed the instructions provided regarding nominations and attendance of FCLB and NBCE meetings, and no action was taken.

### **PEER REVIEW / RULE 600.04**

Dr. Gaertner-Ewing reviewed the history of the peer review rules. She said that the standards in the “Olson Guidelines” referred to in Rule 600.04 are antiquated, and it could be difficult to obtain a copy of the Olson Guidelines. She said the Olson Guidelines are not a “living document” but the standard in the mercy guidelines, which is a living document and provided through the Council of Chiropractic State Associations, could be used. She said it’s based on current research regarding the practice of chiropractors, and it is written by the Council on Chiropractic Guidelines and Practice Parameters (CCGPP) and titled, “Council on Chiropractic Practice Clinical Practice Guidelines.” Mr. Ellsworth reviewed the past use of peer review and the standards within the peer review rule by the Board in disciplinary actions. He said that the rules were clarified in order to simplify and clarify the process and how referrals are made for investigative and potential disciplinary action. The Board agreed to include an ongoing discussion of the peer review rules and possible statute changes on the To Do List and have the Board study the updated standards.

Mr. Coiner made a motion to appoint Dr. Gaertner-Ewing and Dr. Hansen as a subcommittee to review the laws and rules for antiquated language, work with Dr. Mayo, Peer Review Chair to review the CCGPP guidelines and standards for Rule 600.04, and bring its recommendations to the Board. It was seconded by Dr. Gaertner-Ewing. Motion carried.

### **EXTRACORPOREAL SHOCK WAVE THERAPY (FCLB POWER POLL)**

The Board reviewed the scope of practice question from the FCLB regarding extracorporeal shock wave therapy. Dr. Hansen discussed the use of the therapy in various professions. The Board asked Ms. Toncray to respond to the FCLB that the Board is not familiar with the therapy and ask them to review the scope of practice in Idaho Code § 54-704.

The Board agreed to keep its next meeting date as 2/2/2018 at 9:00 AM MST.

## **NEW BUSINESS**

### **COMMENTS ON PROPOSED RULES**

The Board reviewed the comments received on the proposed rules regarding the certification in clinical nutrition. Ms. Cory discussed the history of the recent rulemaking process and the process of how the Board could move forward with the proposed rules. The Board agreed to make the following changes to the proposed rules: remove the automatic external defibrillator in the list of equipment in Rule 702.01, and remove the language pertaining to “Advanced Cardiac Life Support (ACLS)” in Rules 702, 704 and 706.

The Board also agreed that the title for Rule 020 should be: “Non-Certified Clinical Nutritional Practice.”

The Board discussed informed consent within the proposed rules for clinical nutritional certification, and Dr. Gaertner-Ewing will research the topic and present her findings at the next Board meeting.

The Board asked Ms. Gullick to make the proposed revisions and bring the new draft of the proposed rules back to the Board for its review.

## **CORRESPONDENCE**

The Board discussed the follow-up email from Dr. Lawrence Hicks regarding the practicum course for clinical nutrition certification that he submitted earlier this year. Dr. Gaertner-Ewing made a motion to have Dr. Hansen contact Dr. Hicks regarding the course requirements. There was no second and the motion failed. Mr. Coiner made a motion to have the Board send a letter to Dr. Hicks requesting him to work with Boise State University (BSU) to obtain accreditation of the program so it meets the requirements of Idaho Code § 54-717. It was seconded by Dr. Gaertner-Ewing. Motion carried.

## **REVIEW OF REVISED PROPOSED RULES**

The Board reviewed the revised proposed rules after Ms. Gullick made the Board’s requested changes. Dr. Gaertner-Ewing made a motion to adopt the proposed rules for submission as pending rules and have the Chair review any non-substantive revisions and approve and if there were any substantial changes to have the Board review them. It was seconded by Mr. Coiner. Motion carried.

## **BOARD RESPONSE TO COMMENTS ON PROPOSED RULES**

The Board discussed a response to be sent to those who submitted a comment regarding the proposed rules for clinical nutrition certification. Dr. Hansen made a motion to have a response sent to thank people for their correspondence, let them know that the Board has considered all the comments, made some changes to the rules, that the Board did not make other changes based on some comments because those comments were not in accordance with law, that the revised rules will be available in the future on the Board’s website, and the pending rule will be published in the 1/19/2018 journal. It was seconded by Dr. Gaertner-Ewing. Motion carried.

## **FCLB DISTRICT MEETING FOLLOWUP**

The Board reviewed the information and no action was taken.

Mr. Coiner left the meeting at 1:30 PM MST.

## **FCLB DISTRICT MEETING ROUNDTABLE NOTES**

The Board reviewed the information and no action was taken.

## **FCLB POWERPOLL – NPI AND ELECTRONIC RECORDS**

The Board discussed the questions from the FCLB regarding NPI and electronic records. Dr. Gaertner-Ewing made a motion for the Bureau to respond to the FCLB with the Board's answers. It was seconded by Dr. Hansen. Motion carried.

## **CORRESPONDENCE**

### **COUNCIL ON CHIROPRACTIC EDUCATION (CCE) 8-11-2017 ACCREDITATION ACTIONS**

The Board reviewed the information and no action was taken.

### **PACE APPROVED PROVIDER AND WEBSITE LINK – REQUEST FROM CCED SEMINARS**

The Board reviewed the request from CCED Seminars to add a link to its website on the Board's webpage. Dr. Gaertner-Ewing made a motion to authorize the Bureau to add language to the Board's continuing education webpage to include that the Board recognizes PACE approved continuing education courses from all PACE approved providers, have the Chair review and approve the language, and respond to CCED Seminars to let them know the Board does not list individual PACE providers and include the link to the revised CE webpage. It was seconded by Dr. Hansen. Motion carried.

### **CCE 2017 COUNCIL ELECTION RESULTS**

The Board reviewed the information and no action was taken.

### **REQUEST FROM DR. PARGE TO MEET WITH THE BOARD**

The Board reviewed the request, but there was not a specific topic addressed. Dr. Gaertner-Ewing made a motion to have the Bureau respond to Dr. Parge and let him know the date of the next meeting and invite him to attend either in person or via phone and provide a phone number if necessary. It was seconded by Dr. Hansen. Motion carried.

### **QUESTION ABOUT LIMITATIONS OF PRACTICE FOR CHIROPRACTORS**

The Board reviewed the information provided regarding the practice of neurofeedback by a chiropractor. The Board agreed to let the inquirer know that in absence of a complaint, the Board can take no further action.

### **CCE CALL FOR COMMENTS – SECTION 1 OF CCE ACCREDITATION STANDARDS**

The Board reviewed the information and agreed that Board members could respond as individuals since this is a call for public comment.

## **QUESTIONS ABOUT CHIROPRACTIC RECORDS**

The Board reviewed the questions regarding records retention requirements for chiropractors. Dr. Gaertner-Ewing made a motion to respond to the inquirer with a recommendation to consult a practice management consultant or attorney with regard to these questions since they are not addressed in the Board's statutes and rules and authorize the Chair to review and approve the response. It was seconded by Dr. Hansen. Motion carried.

## **2017 CE CREDITS QUESTION**

The Board reviewed the correspondence regarding the approval of continuing education. Dr. Hansen made a motion to have the Bureau draft a response that the Board's rules do not allow the type of exception requested so the Board cannot grant the request but will accept six (6) hours of the CE, that the Board has taken the request seriously and will address the issue of continuing education in a future meeting for possible proposed CE rules to submit to the Legislature, that the Board acknowledges the inquirer's extensive training and applauds him for undergoing enhanced education endeavors, and to have the Chair review and approve. It was seconded by Dr. Gaertner-Ewing. Motion carried.

## **QUESTION ABOUT USE OF CLASS IV LASERS**

The Board reviewed the question regarding the use of Class IV lasers by chiropractors and agreed to have the Bureau respond to the inquirer and refer him to Idaho Code § 54-704 and 54-705 and to contact his own attorney if further clarification is required.

## **EXECUTIVE SESSION**

Dr. Hansen made a motion that the Board go into executive session under Idaho Code § 74-206(1)(d) to consider records that are exempt from disclosure under the Idaho Public Records Law. The purpose of the Executive Session was to consider license application materials. It was seconded by Dr. Gaertner-Ewing. The vote was: Dr. Oliver, aye; Dr. Gaertner-Ewing, aye; and Dr. Hansen, aye. Motion carried.

Dr. Gaertner-Ewing made a motion to come out of executive session. It was seconded by Dr. Hansen. Motion carried.

## **CE COURSES**

The Board reviewed all the CE courses. Dr. Hansen made a motion to approve all the courses as noted. It was seconded by Dr. Gaertner-Ewing. Motion carried.

## **CE FOR REINSTATEMENT**

The Board reviewed and approved all CE for reinstatement.

**NEXT MEETING** was scheduled for 2/2/2018 at 9:00 AM MST.

## **ADJOURNMENT**

Dr. Gaertner-Ewing made a motion to adjourn the meeting at 3:05 PM MST. It was seconded by Dr. Hansen. Motion carried.

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Herbert W Oliver, DC, Chair

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Charles H Coiner

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Shannon Gaertner-Ewing, DC

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Lynn A Hansen, DC

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Kathleen J McKay, DC

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Tana Cory, Bureau Chief